

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA (Philadelphia)**

IN RE:

TANYA L CAIN	:	BK. No. 17-16840-amc
AKA TANYA L CHAMBERS-CAIN	:	
TIMOTHY D CAIN	:	Chapter No. 13
Debtors	:	
	:	
CITIMORTGAGE, INC.	:	
Movant	:	
v.	:	11 U.S.C. §362
TANYA L CAIN	:	
AKA TANYA L CHAMBERS-CAIN	:	
TIMOTHY D CAIN	:	
Respondents	:	

**MOTION OF CITIMORTGAGE, INC. FOR RELIEF FROM AUTOMATIC STAY UNDER
§362 PURSUANT TO BANKRUPTCY PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and leave to foreclose on its mortgage on real property owned by Debtors, TANYA L CAIN AKA TANYA L CHAMBERS-CAIN AKA TANYA CAIN and TIMOTHY D CAIN.

1. Movant is **CITIMORTGAGE, INC.**
2. Debtors, TANYA L CAIN AKA TANYA L CHAMBERS-CAIN AKA TANYA CAIN and TIMOTHY D CAIN are the owners of the premises located at **70 HOUSTON RD, LANSDOWNE, PA 19050-1726**, hereinafter known as the mortgaged premises.
3. Movant is the holder of a mortgage on the mortgaged premises.
4. Debtors' failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.
5. Movant wishes to institute foreclosure proceedings on the mortgage because of Debtors' failure to make the monthly payment required hereunder.
6. The foreclosure proceedings to be instituted were stayed by the filing of the instant Chapter 13 Petition.
7. As of August 18, 2020, Debtors have failed to tender post-petition mortgage

payments for the months of May 2020 through August 2020 is \$995.89. The monthly payment amount for the months of May 2020 through August 2020 is \$995.89, less suspense in the amount of \$26.96, for a total amount due of \$3,956.60. The next payment is due on or before September 1, 2020 in the amount of \$995.89. Under the terms of the Note and Mortgage, Debtors have a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

8. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage.

9. Movant specifically requests permission from the Honorable Court to communicate with Debtors and Debtors' counsel to the extent necessary to comply with applicable nonbankruptcy law.

10. Movant, its successors and assignees posits that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees should be allowed to immediately enforce and implement the Order granting relief from the automatic stay.

11. Movant requests that if relief is granted that Federal Rule of Bankruptcy Procedure 3002.1 be waived.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

a. Modifying the Automatic Stay under Section 362 with respect to **70 HOUSTON RD, LANSDOWNE, PA 19050-1726** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and

b. Movant specifically requests permission from this Honorable Court to communicate with Debtors and Debtors' counsel to the extent necessary to comply with applicable nonbankruptcy law; and

c. Holding that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees, should be allowed to immediately enforce and implement the Order granting relief from the automatic stay ; and

d. Waiving Federal Rule of Bankruptcy Procedure 3002.1; and

e. Granting any other relief that this Court deems equitable and just.

/s/ Mario J. Hanyon

Mario J. Hanyon, Esq., Id. No.203993

Phelan Hallinan Diamond & Jones, LLP

1617 JFK Boulevard, Suite 1400

One Penn Center Plaza

Philadelphia, PA 19103

Phone Number: 215-563-7000 Ext 31340

Fax Number: 215-568-7616

Email: mario.hanyon@phelanhallinan.com

August 18, 2020